

**IN THE CLAIMS:**

Please Amend claims 1, 8, 15-16, 29-33, and 35-38; and Cancel claim 34 without prejudice or disclaimer as follows.

1. (Currently Amended) A Mmethod, comprising  
~~for determining transmit diversity for a transmitter having at least two transmit~~  
~~diversity branches, the method comprising:~~

determining at least one transmit diversity branch for use based on estimated  
channel properties of at least two transmit diversity branches of a transmitter.

2. (Previously Presented) A method as defined in claim 1, wherein the  
determining comprises determining the at least one transmit diversity branch for use  
using a transmit diversity performance indicator defined for a transmit diversity branch  
set, the transmit diversity performance indicator being dependent on at least estimated  
channel properties of transmit diversity branches belonging to the transmit diversity  
branch set.

3.(Previously Presented) A method as defined in claim 2, wherein the determining  
comprises using the transmit diversity performance indicator taking into account one or  
more of the following:

small-scale fading statistics, and specific channel coding.

4. (Previously Presented) A method as defined in claim 1, wherein the determining the at least one transmit diversity branch for use comprises taking into account a required outage probability.

5. (Previously Presented) A method as defined in claim 1, wherein the determining comprises determining the at least one transmit diversity branch for use based on said estimated channel properties comprising expected powers of transmit diversity branches.

6. (Previously Presented) A method as defined in claim 5, wherein the determining comprises evaluating a transmit diversity performance indicator using said expected powers.

7. (Previously Presented) A method as defined in claim 6, wherein the determining comprises calculating the transmit diversity performance indicator using the following formula:

$$\mu_k = \sqrt[k]{F_0 \prod_{m=1}^k \lambda_m},$$

where  $F_0$  denotes the required outage probability,  $\lambda_m$  denotes the expected power of an m-th transmit diversity branch in a transmit diversity branch set  $\Theta$ , and  $\Theta$  is the number of transmit diversity branch indexes in the transmit diversity branch set  $\Theta$ .

8. (Currently Amended) A method as defined in claim 6, further comprising:  
evaluating said transmit diversity performance indicator for various transmit diversity branch sets; and  
selecting for use the transmit diversity branch set having an optimum transmit diversity performance indicator value.

9. (Previously Presented) A method as defined in claim 8, wherein the evaluating comprises evaluating said transmit diversity performance indicator for transmit diversity branch sets using a tree structure, a transmit diversity branch set relating to a child node having less transmit diversity branches than a transmit diversity branch set relating to a parent node of the child node.

10. (Previously Presented) A method as defined in claim 6, wherein the determining comprises evaluating the transmit diversity performance indicator defining a branch power threshold for adding a further transmit diversity branch to a transmit diversity branch set for use, the branch power threshold being dependent on the expected powers of the transmit diversity branches already selected to the transmit diversity branch set for use.

11. (Previously Presented) A method as defined in claim 10, wherein the determining comprises selecting the transmit diversity branches to the transmit diversity branch set for use in an order in accordance with estimated expected powers.

12. (Previously Presented) A method as defined in claim 1, wherein the determining comprises determining the at least one transmit diversity branch for use based on the estimated channel properties comprising second order statistics of channel coefficients of transmit diversity branches.

13. (Previously Presented) A method as defined in claim 12, wherein the determining comprises evaluating a transmit diversity performance indicator using said second order statistics.

14. (Previously Presented) A method as defined in claim 12 , wherein the determining comprises using the second order statistics comprising at least one correlation matrix calculated using estimated channel coefficients.

15. (Currently Amended) A method as defined in claim 14, wherein the determining comprises calculating the transmit diversity performance indicator using the following formula:

$$\mu_{\Theta} = \sqrt[|\Theta|]{F_0 \prod_{m=1}^{|\Theta|} u_m} ,$$

where  $F_0$  denotes the required outage probability,  $u_m$  denotes an m-th Eigenvalue of a correlation matrix relating to a transmit diversity branch set  $\Theta$ , and  $|\Theta|$  is the number of transmit diversity branch ~~indeces~~ indexes in the transmit diversity branch set  $\Theta$ .

16. (Currently Amended) A method as defined in claim 13, further comprising:  
evaluating said transmit diversity performance indicator for various transmit diversity branch sets; and

selecting for use the transmit diversity branch set having an optimum transmit diversity performance indicator value.

17. (Previously Presented) A method as defined in claim 16, wherein the evaluating comprises evaluating said transmit diversity performance indicator for transmit diversity branch sets using a tree structure, a transmit diversity branch set relating to a child node having less transmit diversity branches than a transmit diversity branch set relating to a parent node of the child node.

18. (Previously Presented) A method as defined in claim 12, further comprising:

constructing virtual transmit branches as linear combinations of physical transmit diversity branches, and wherein the estimated channel properties comprise expected powers of said virtual transmit branches.

19. (Previously Presented) A method as defined in claim 18, wherein the constructing comprises constructing the virtual transmit branches as Eigenvectors of a channel correlation matrix derived from estimated channel coefficients and expected

powers of the virtual transmit branches are determined as Eigenvalues of respective Eigenvectors.

20. (Previously Presented) A method as defined in claim 18, wherein the determining comprises determining the at least one transmit diversity branch using a transmit diversity performance indicator defining a branch power threshold for adding a further virtual transmit branch set for use, the branch power threshold being dependent on the expected powers of the virtual transmit branches already selected to the virtual transmit branch set for use.

21. (Previously Presented) A method as defined in claim 20, wherein the determining comprises selecting the virtual transmit branches to the virtual transmit branch set for use in an order in accordance with respective expected powers.

22. (Original) A method as defined in claim 1, further comprising:  
allocating transmission power evenly to physical transmit diversity branches or virtual transmit diversity branches selected for use.

23. (Original) A method as defined in claim 1, further comprising:  
transmitting information using transmit diversity branches selected for use.

24. (Original) A method as defined in claim 1, further comprising:  
estimating channel properties using channel coefficients at a transmitter.

25. (Original) A method as defined in claim 1, further comprising:  
estimating channel properties using channel coefficients at a receiver.

26. (Previously Presented) A method as defined in claim 1, wherein the determining comprises determining the at least one transmit diversity branch for use for a receiver independently of other receivers.

27. (Previously Presented) A method as defined in claim 1, wherein the determining comprises determining the at least one transmit diversity branch for a radio link independently of other radio links employed by a transmitter.

28.(Previously Presented) A method as defined in claim 1, wherein the determining comprises determining the at least one transmit diversity branch for use for a transmitter, for use with a receiver.

29.(Currently Amended) ~~A network element~~ An apparatus, for use in transmit diversity, the network element comprising:

an establisher establishing unit configured to establish estimated channel properties of at least two transmit diversity branches, and

a ~~determiner~~ ~~determining unit~~ configured to determine transmit diversity branches for use based on the estimated channel properties.

30. (Currently Amended) ~~A network element~~ An apparatus as defined in claim 29, ~~the network element~~ further comprising:

said at least two transmit diversity branches; and

a ~~transmitting unit~~ transmitter configured to transmit information over a radio interface using selected transmit diversity branches.

31 (Currently Amended) ~~A network element~~ An apparatus as defined in claim 30, ~~said network element~~ comprising:

a base station of a cellular communications system.

32. (Currently Amended) ~~A network element~~ An apparatus as defined in claim 30, ~~said network element~~ comprising:

a base station controller of a cellular communications system.

33. (Currently Amended) ~~A network element~~ An apparatus as defined in claim 31, ~~said network element~~ comprising:

an access point of a wireless local area network.

34. (Cancelled)



35. (Currently Amended) ~~A radio transmitter~~ An apparatus as defined in claim 35 29, ~~the radio transmitter~~ comprising:

a mobile station for a cellular telecommunications network.

36. (Currently Amended) ~~A radio transmitter~~ An apparatus as defined in claim 35 29, ~~the radio transmitter~~ comprising:

user equipment of a wireless local area network.

37. (Currently Amended) ~~A network~~ An apparatus, ~~for use in transmit diversity, the network apparatus element~~ comprising:

establishing means for establishing estimated channel properties of at least two transmit diversity branches; and

determining means for determining transmit diversity branches for use based on the estimated channel properties.

38. (Currently Amended) A computer program embodied on a computer readable medium, the computer readable medium storing code comprising computer executable instructions configured to perform:

determining at least one transmit diversity branch for use based on estimated channel properties of at least two transmit diversity branches of a transmitter.